



U.S. Department
of Transportation
**Federal Aviation
Administration**

Aviation Safety

800 Independence Ave
Washington, DC 20591

December 23, 2021

Exemption No. 18980
Regulatory Docket No. FAA-2021-1098

Mr. Brent Armenta
Director of Operations
Maverick Airstar LLC
107 Corsair Dr.
Grand Canyon, AZ 86023

Dear Mr. Armenta:

This letter is to inform you that the Federal Aviation Administration (FAA) has granted your request for an exemption. This letter transmits the FAA's decision, explains the FAA's basis, and provides the conditions and limitations of the exemption, including the date it ends.

The Basis for the FAA's Decision

By letter dated November 16, 2021, you petitioned the FAA on behalf of Maverick Airstar LLC (Maverick) for an exemption from §§ 136.9(a) and 136.11(c)(2) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to allow Maverick to conduct commercial air tour flights within the Grand Canyon Area in Maverick's helicopters with life preservers that are readily available for their intended use and easily accessible to each occupant and without helicopter floats.

The FAA has issued a grant of exemption in circumstances similar in material respects to those presented in your petition. In Grant of Exemption No. 9491 (copy enclosed), the FAA found that an equivalent level of safety could be achieved in commercial helicopter air tour flights over the Colorado River and its tributaries with life preservers that are readily available for their intended use and easily accessible to each occupant and without helicopter floats, subject to conditions and limitations.

Having reviewed your reasons for requesting an exemption, I find that:

- They are similar in all material respects to relief previously requested in the enclosed Grant of Exemption No. 9491;

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- The reasons stated by the FAA for granting the enclosed Grant of Exemption No. 9491 also apply to the situation presented in your petition; and
- A grant of exemption is in the public interest.

The FAA's Decision

The FAA has determined that good cause exists for not publishing a summary of the petition in the *Federal Register*. The FAA has determined that good cause exists because the requested exemption would not set a precedent and any delay in acting on this petition would be detrimental to Maverick.

Under the authority contained in 49 U.S.C. §§ 106(f), 40113, and 44701, which the FAA Administrator has delegated to me, I hereby grant Maverick Airstar LLC an exemption from 14 CFR §§ 136.9(a) and 136.11(c)(2) to the extent necessary to allow Maverick to conduct commercial air tour flights within the Grand Canyon Area in Maverick's helicopters with life preservers that are readily available for their intended use and easily accessible to each occupant and without helicopter floats, subject to the conditions and limitations described below.

Conditions and Limitations

1. This grant of exemption applies only to those Maverick air tour flights conducted over the Colorado River and its tributaries and only to the FAA-approved Maverick routes described in its petition. The Las Vegas Flight Standards District Office (FSDO) must approve any change to routes. This grant of exemption does not apply to any other flights over water conducted by Maverick.
2. Each flight must be conducted in accordance with Part 135 and other than, for purposes of takeoff or landing, when the aircraft is over the Colorado River, it must be operated at or above 5,000 feet above the high water line.
3. During these flights, each occupant must have a life preserver readily available for intended use and that life preserver must be easily accessible.
4. Maverick will fully brief each passenger in accordance with the passenger overwater briefings per Section 136.7(b) and point out the location of life preservers to passengers during the pre-takeoff briefing.
5. The Las Vegas FSDO must approve the installation of the life preservers.
6. Each pilot must have suitable landing areas available for each flight.
7. Each pilot must have completed FAA-approved training concerning emergency landings and how to select suitable landing areas for helicopters.

8. Maverick must comply with any additional requirements added by the Las Vegas FSDO.

Failure to comply with any of the above conditions and limitations may result in the immediate suspension or rescission of this exemption.

The Effect of the FAA's Decision

This exemption terminates on January 31, 2024, unless sooner superseded or rescinded.

To request an extension or amendment to this exemption, please submit your request by using the Regulatory Docket No. FAA-2021-1098 (<http://www.regulations.gov>). In addition, you should submit your request for extension or amendment no later than 120 days prior to the expiration listed above, or the date you need the amendment, respectively.

Any extension or amendment request must meet the requirements of 14 CFR § 11.81.

Sincerely,

/s/

Robert C. Carty
Acting Executive Director, Flight Standards Service

Enclosure

AFS-22-00323-E

Exemption No.

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

In the matter of the petition of

PAPILLON AIRWAYS, INC.

for an exemption from
§§ 136.9(a) and 136.11(c)(2)
of Title 14, Code of
Federal Regulations

Regulatory Docket No. FAA-2007-28739

GRANT OF EXEMPTION

By letter dated July 8, 2007, Mr. John Becker, Director of Operations, Papillon Airways Inc. (Papillon), South Rim Office, P.O. Box 155, Hwy 64, Grand Canyon, Arizona 86023, petitioned the Federal Aviation Administration (FAA) on behalf of Papillon for an exemption from §§ 136.9(a) and 136.11(c)(2) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would allow Papillon to operate its helicopters over the Colorado River and its tributaries within the Special Flight Rules Area, SFAR 50-2, at Grand Canyon National Park without each occupant on its commercial air tours wearing a life preserver and without their helicopters being float equipped. Papillon will provide life preservers but each occupant will not be required to wear a life preserver.

The petitioner requests relief from the following regulations:

Section 136.9(a) prescribes, in pertinent part, that except as provided in paragraphs (b) or (c) of this section, the operator and pilot in command of commercial air tours over water beyond the shoreline must ensure that each occupant is wearing a life preserver from before takeoff until flight is no longer over water.

Section 136.11(c)(2) prescribes, in pertinent part, that fixed floats or an inflatable flotation system is not required for a helicopter under this section if the helicopter is

operated within power-off gliding distance to the shoreline for the duration of the flight and each occupant is wearing a life preserver from before takeoff until the aircraft is no longer over water.

The petitioner supports its request with the following information:

Papillon states it is in general agreement with the need for § 136.9(a) but believes that under the circumstances described the section is unduly burdensome, costly, and impractical. Papillon believes that this section would discourage passengers from taking tours which are so important to the enhancement of travel and tourism in Northern Arizona.

Papillon proposes that instead of complying with § 136.9(a) it will comply with § 136.9(b)(2) with additional conditions even though the section applies to airplanes and it operates helicopters. Since Papillon requests exemption from § 136.9(a), it would be required to have helicopter floats per § 136.11(c)(2). Papillon requests an exemption from both wearing life preservers and from having helicopter floats.

The petitioner states it uses single-engine helicopters. During peak season, Papillon operates as many as 17 such helicopters on a daily basis. The petitioner uses the air tour routes for rotorcraft operations prescribed by SFAR 50-2 (Special Flight Rules In The Vicinity Of The Grand Canyon National Park, AZ).

Papillon states that the air tour routes require it to cross the Colorado River more than 5,000 feet above the water; the river is just 300 feet wide; and it takes just a couple of seconds to cross. Papillon crosses the river minutes after takeoff when at cruise power settings. The petitioner believes these were not the kind of flights the FAA had in mind when the new National Air Tour Safety Standards final rule was published and questions why FAA excepts life preservers when the overwater portion of flight is only for takeoff or landing. Papillon finds the takeoff and landing more critical than cruise flight.

Papillon states that at no time is it crossing the shoreline of the Colorado River beyond gliding distance by autorotation to alternative suitable landing areas located under these air tour routes. Papillon states this is no coincidence since the routes were designed specifically to allow for forced landing areas in the event of an emergency.

As a condition for a grant of exemption, the petitioner proposes to continue to designate for its helicopter air tour operations at the Grand Canyon multiple suitable landing areas. Papillon states it has been flying helicopter air tours at the Grand Canyon since 1965 and has conducted hundreds of thousands of flights in that time without ever coming close to ditching in the Colorado River.

Papillon confirms it will fully utilize its FAA-approved SFAR 50-2 training program by which its pilots receive initial and recurrent ground and flight training to fully implement the conditions set forth in this petition. Papillon lists several requirements it will comply with and points out that it instructs pilots that ditching in the Colorado River is never an option under any circumstance as the river is swift moving, muddy, and cold. Papillon believes that training pilots to use established land-based forced-landing sites is a superior solution to ditching particularly as pop-out floats are not required for its Grand Canyon commercial air tour under § 136.11(a).

The petitioner states it carefully picked the most suitable forced-landing sites after careful analysis of the alternatives and in coordination with FAA. Papillon commits to continue working with the FAA on forced-landing locations.

Papillon states it will have life preservers and passengers will be fully briefed on the use of the life preservers. The petitioner states it already operates its flights within safe autorotation gliding distance to suitable forced-landing sites designated by the company adjacent to the Colorado River.

As an alternative to § 136.9(a), which requires wearing life preservers, Papillon wants to comply with § 136.9(b)(2) which currently only provides relief for single-engine airplanes and not single-engine helicopters.

Papillon believes that a grant of exemption is in the public interest because it will improve safety. The petitioner believes it will lessen the chance of premature or inadvertent inflation of life preservers impeding passenger exit after an emergency landing. In addition, Papillon asserts the passengers will understand the steps they will have to take in case of a forced landing. Papillon further states that a grant of exemption will reduce costs associated with procuring replacement life preservers estimated to be \$25,000 or more each year at a time that other costs in the industry continue to increase.

Papillon states that an equivalent level of safety to § 136.9(a) can be achieved through adopting alternative procedures including having life preservers available (not worn) for each person on its commercial air tour flights, instructing all passengers on the use of life preservers, and instructing and training company pilots on the use of land-based, company-designated forced-landing sites that meet the definition of a suitable landing area for helicopters. Papillon proposes the designation and use of safe, suitable landing areas on the Green-1, -1A, and -2 be implemented through a formal letter of agreement with FAA.

Papillon proposes that a grant of exemption also recognizes that it would be even more burdensome, costly, and impractical to require Papillon to equip its helicopters with fixed floats or an inflatable flotation system as required by § 136.11(c)(2) just because

Papillon proposes that occupants on board its commercial air tours need not wear life preservers.

Papillon states this exemption is sought in large part because of the overly broad definition of shoreline in the final rule that provides no relief for circumstances such as crossing the Colorado River while flying established, FAA-designated air tour routes at Grand Canyon. Papillon believes the FAA should reconsider whether river banks should be included in the definition of shoreline. Crossing rivers in general for all of aviation, not just commercial air tour, poses little threat of a forced water landing. Papillon proposes that where there are established air tour routes, either under SFAR 50-2, an air tour management plan, or under some sort of FAA authorization or letter of agreement, FAA should also permit operators to designate suitable landing areas meeting the requirements of § 136.1(d) to permit a safe emergency landing and provided life preservers are readily available to be donned by persons on board that also have been briefed in their use prior to flight.

Papillon states that the FAA contemplates in Subpart A of part 136 circumstances where having life preservers available rather than worn provide an adequate level of safety. Section 136.9(b)(2) provides such relief for airplanes that remain within power-off gliding distance to a shoreline. Section 136.11(c)(2) recognizes the principle that helicopters can indeed glide in a power-off situation. The petitioner questions why shouldn't similar relief be extended to helicopter operators when such air tour flights can also power-off glide to shoreline? Papillon believes that rather than approving this grant for exemption, perhaps FAA should amend § 136.9(b)(2) by replacing airplane with aircraft.

Papillon operates four different models of helicopters at the Grand Canyon. It proposes modifying each model by having pouch-type life preservers mounted where they will be easily accessible to all occupants. This would not require major alterations and it already does it on some non-air tour flights Papillon conducts where it has proven to be an acceptable method of securing the vests.

Papillon states the public benefit for the grant of exemption is threefold:

- (1) Safety – the pouch-type life preserver used in the air tour industry fastens around the waist where it can shift or be adjusted over the latching mechanism of the seat belt thereby impeding the ability to unfasten the seatbelt quickly. Panicked passengers while struggling to unfasten their belts could also inadvertently inflate their life preservers.
- (2) Temperatures – in the summer months the Grand Canyon can exceed 90 degrees, life preservers other than the pouch-type are hot and extremely uncomfortable to wear. Requiring passengers to wear any type of life preserver, pouch-type or not, would have a significant negative impact on their experience.

- (3) Cost – Papillon has to pass on the cost of maintaining and constantly providing replacement life preservers to passengers and pilots due to premature wear and tear associated with donning life preservers as many as 10 to 15 times a day. Papillon contacted several air tour operators currently utilizing life preservers. Based on these operators' experience, Papillon estimates its annual repairs, replacements, and shipping costs for life preservers will exceed \$25,000.

Papillon states pop-out floats are expensive to purchase, install, and maintain and they reduce revenue payload on each and every flight. Papillon states that requiring it to install floats would thus be onerous while providing no safety benefit whatsoever since ditching in the Colorado River is improbable. Thus, if FAA grants relief from § 136.9(a) to not wear life preservers, it also requests relief from § 136.11(c)(2) to not have floats.

Finally, Papillon states that only one other operator would meet the identical situations faced by Papillon in seeking relief from this requirement.

To summarize, Papillon proposes alternatively that it would make life preservers readily available to all occupants on board its air tour flights, instruct occupants on the use of life preservers and emergency egress procedures, and adopt, through a letter of agreement, designated safe suitable landing areas as defined in § 136.1(d) which Papillon's pilots would be trained to use versus ditching in the Colorado River.

A summary of the petition was published in the Federal Register on August 31, 2007 (72 FR 50438). No comments were received.

The FAA's analysis is as follows:

The FAA has considered fully the petitioner's request and supporting materials and finds that a grant of exemption would be in the public interest and maintains a level of safety equivalent to that provided by the current regulations.

The FAA finds that Papillon is a part 135 operator conducting commercial air tours at the Grand Canyon. The petitioner flies passengers over Lake Mead and over the Colorado River and its tributaries. This petition involves flights over the Colorado River and its tributaries only. The Colorado River flights are conducted on behalf of an Indian tribe and involve river rafters. The FAA published a final rule, National Air Tour Safety Standards, on February 13, 2007 (72 FR 6885). As a result of that final rule, the Grand Canyon operators are required for the first time to have overwater equipment when operating over water beyond the shoreline of that water. The equipment involves life preservers for each occupant (some must be worn and some must only be readily available for its intended use and easily accessible to each occupant) and helicopter floats. Each passenger must also be briefed for overwater operations. The life preservers on helicopters may be readily available for intended use

and easily accessible to each occupant if the helicopter is equipped with floats; it is a multiengine helicopter that can be operated with the critical engine inoperative at a weight that will allow it to climb, at least 50 feet a minute, at an altitude of 1,000 feet above the surface, as provided in the Rotorcraft Flight Manual; or the overwater operation is necessary only for takeoff or landing. Papillon requests to not have floats. It operates single-engine helicopters, and its overwater operation is not necessary for takeoff or landing. The FAA agrees with the petitioner that an equivalent level of safety can be reached by having the life preserves readily available to all occupants, for intended use, on board its air tour flights.

Although Papillon uses single-engine helicopters, the FAA allowed operators such as Papillon to not install floats if it operates within power-off gliding distance to the shoreline for the duration of the flight and each occupant is wearing a life preserver from before takeoff until the flight is no longer over water. This is part of the final rule and explained in the preamble to the final rule. In this petition, Papillon requests to be excepted from (1) installing helicopter floats in accordance with § 136.11(c)(2); and (2) having occupants wear their life preservers. Papillon asserts it will have life preservers and will have the life preserves readily available for intended use and easily accessible to each occupant, but not worn by each occupant.

The FAA is very familiar with Papillon's flights crossing over the Colorado River and its tributaries. In the notice of proposed rulemaking (NPRM) for the final rule (68 FR 60572), the FAA proposed deviation authority for more than one rule section. The proposal included deviations for overwater operations. In that NPRM, the FAA stated it would consider, "the size and nature of the body of water and any other factors, as appropriate." The operators overwhelmingly opposed the deviation authority and that provision was not carried forward to the final rule based on comments. The FAA agrees that it is very unlikely that it would have an emergency during the short time it is over the water, and it has options for landing in other than the water if it should have an emergency. The FAA further recognizes the uniqueness of Papillon's operation which is on particular air tour routes specified in its petition (i.e., SFAR 50-2, Green-1, Green-1A and Green-2 air tour routes). These air tours routes are flown at more than 5,000 feet above the high water line of the Colorado River and never flown beyond power-off gliding distance to landing areas located under these air tour routes.

The FAA's Decision

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, Papillon Airways, Inc., is granted an exemption from 14 CFR §§ 135.9(a) and 135.11(c)(2) to the extent necessary to allow Papillon to conduct commercial air tour flights over the Colorado River and its tributaries in Papillon's helicopters with life preservers that are readily available for their intended use and easily accessible to

each occupant and to not have helicopter floats, subject to the conditions and limitations listed below.

Conditions and Limitations

1. This grant of exemption applies only to those Papillon air tour flights conducted over the Colorado River and its tributaries and only to the FAA-approved Papillon routes described in its petition (i.e., SFAR 50-2 Green-1, Green-1A and Green-2). Any change to routes must be approved by the Las Vegas Flight Standards District Office (FSDO). This grant of exemption does not apply to Lake Mead or any other flights over water conducted by Papillon.
2. Each flight must be conducted in accordance with part 135 and other than for purposes of takeoff or landing, when the aircraft is over the Colorado River, it must be operated at or above 5,000 feet above the high water line.
3. During these flights, each occupant must have a life preserver readily available for intended use and that life preserver must be easily accessible.
4. Papillon will fully brief each passenger in accordance with the passenger overwater briefings per § 136.7(b) and point out the location of life preservers to passengers during the pre-takeoff briefing.
5. The installation of the life preservers must be approved by the Las Vegas FSDO.
6. Each pilot must have suitable landing areas available each flight.
7. Each pilot must have completed FAA-approved training concerning emergency landings and how to select suitable landing areas for helicopters.
8. Papillon must comply with any additional requirements added by the Las Vegas FSDO.

This exemption terminates on _____, unless sooner superseded or rescinded.

Issued in Washington, DC, on _____.

Project No.: E-2007-0868

Project Officer:

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